

STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of the Office of Financial and Insurance Services

In the matter of:

42NA LLC  
2136 Shellbrook  
Auburn Hills, MI 48326

Enforcement Case No. 06-4911

Joseph Fortuna, Member

Respondents

---

Issued and entered,  
on 19 Dec 2006  
by Frances K. Wallace,  
Chief Deputy Commissioner

CONSENT ORDER

I.  
BACKGROUND

42 NA LLC is a Michigan domiciled corporation organized under the laws of the State of Michigan. Joseph Fortuna is the sole member of 42NA LLC (Respondents). Respondents are not presently licensed by the Office of Financial and Insurance Services ("OFIS") pursuant to the Mortgage Brokers, Lenders, and Servicers Licensing Act ("MBLSLA"), Act No. 173 of 1987, as amended, MCL 445.1651 *et seq.* or any other consumer finance statute regulated by OFIS. In reviewing the past practices of Respondents, OFIS staff determined that Respondents conducted mortgage-related activities, which require licensure as a mortgage broker under the MBLSLA.

Respondents and OFIS staff conferred and agreed to resolve this matter according to the terms set forth below:

**II.  
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Respondent Joseph Fortuna is presently employed as a branch manager with Hamlin Mortgage Company. Respondent Joseph Fortuna has been employed with Hamlin Mortgage Company since August of 2004.
2. Respondent Joseph Fortuna is the sole member of 42NA LLC.
3. Respondent 42NA LLC is not licensed by OFIS pursuant to the MBLSLA or any other consumer finance statute regulated by OFIS.
4. As a branch manager of Hamlin Mortgage Company, Respondent Joseph Fortuna originates mortgage loans, and receives remuneration from Hamlin Mortgage Company for his services.
5. Hamlin Mortgage Company reported 70% of Respondent Joseph Fortuna's commissions via W-2 forms to the Internal Revenue Service (IRS), and after the deduction of the appropriate taxes, Respondent 42NA LLC received 22.1% of Respondent Joseph Fortuna's commissions, which were reported to the IRS on Forms 1099.
6. In 2005, Respondent Joseph Fortuna received nonemployee compensation from Hamlin Mortgage Company in the sum of \$103,323.46.
7. Section 2(1) of the MBLSLA prohibits a person from acting as a mortgage broker, mortgage lender, or mortgage servicer without first obtaining a license or registration.
8. Section 2(3) of the MBLSLA prohibits a residential mortgage loan originator (also known as a loan officer) from receiving directly or indirectly any compensation, commission,

fee, points or other remuneration from a mortgage broker, mortgage lender, or mortgage servicer other than his/her employer.

9. Respondents conducted first lien mortgage business without the requisite license or registration certificate required under Section 2(1) of the MBLSLA.

### **III. ORDER**


Therefore it is ORDERED that:

1. Respondents shall cease and desist violating sections 2(1) and 2(3) of the MBLSLA.
2. Joseph Fortuna, both individually and in any representative capacity, where licensure as a mortgage broker under the MBLSLA is required and granted, shall establish and maintain a program to monitor and ensure compliance with all state and federal consumer laws and regulations relating to all mortgage activity.
3. Joseph Fortuna, both individually and in any representative capacity, where licensure as a mortgage broker under the MBLSLA is required and granted, shall educate himself and all employees with respect to all state and federal consumer laws and regulations, including the Mortgage Brokers, Lenders, and Servicers Licensing Act.
4. Joseph Fortuna shall review and ensure both individually and in any representative capacity, where licensure as a mortgage broker under the MBLSLA is required and granted, compliance with the OFIS Consumer Finance Bulletin No. 2003-09-CF, posted on the OFIS website, which clarifies OFIS's position on employees and branch offices in Michigan.
5. Joseph Fortuna, both individually and in any representative capacity, where licensure as a mortgage broker under the MBLSLA is required and granted, shall immediately designate a compliance officer, and provide written notification to OFIS of the compliance officer's name



and business address, to ensure compliance with all applicable state and federal laws, and Mr. Fortuna shall notify the Office of Financial and Insurance Services of any change in designation of the compliance officer within 30 days of such re-designation.

The Commissioner retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as she shall deem just, necessary, and appropriate in accordance with the provisions of the MBLSLA. Failure by Joseph Fortuna and 42NA LLC, both individually and in any representative capacity, where licensure as a mortgage broker under the MBLSLA is required and granted, to abide by the terms and provisions of this Order may result in the commencement of additional proceedings.

  
Frances K. Wallace,  
Chief Deputy Commissioner